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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,746	07/30/2003	Leonid Bravinski	92953-7	6812
22463	7590	03/08/2011		
SMART & BIGGAR 438 UNIVERSITY AVENUE SUITE 1500, BOX 111 TORONTO, ON M5G 2K8 CANADA			EXAMINER SAFAVI, MICHAEL	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 03/08/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/629,746

Applicant(s)

BRAVINSKI, LEONID

Examiner

MICHAEL SAFAVI

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) 73, 74 and 160 is/are withdrawn from consideration.
- 5) ☒ Claim(s) See Continuation Sheet is/are allowed.
- 6) ☒ Claim(s) 75-79, 81-83, 94, 134-136, 143 and 158 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of Filing Cited (PTO-502)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 2, 6-8, 12, 13, 15, 16, 25, 29, 34, 35, 69, 72-79, 81-83, 91-94, 104, 105, 107, 114, 115, 122-126, 128, 131-136, 143-145, 147, 158, 159 and 160.

Continuation of Disposition of Claims: Claims allowed are 2,6-8,12,13,15,16,25,29,34,35,69,72, 91-93,104,105,107,114,115,122-126,128,131-133,144,145,147 and 159.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 07, 2010 has been entered.

Election/Restrictions

Claims 73, 74, and 160 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species of the invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 15, 2007.

Applicant's remarks on page 34 of the response have been noted. However, claims 73 and 74 as addressed within the Office actions of September 17, 2007 and June 25, 2008 appear appreciably different from claims 73 and 74 as presented within the amendment of December 29, 2008, (in fact, directed to a species distinct from that elected in Applicant's response of May 15, 2007). As has been set forth within the Office action of June 07, 2010 claims 73 and 74 were inadvertently listed with claims indicated as allowable if placed in independent form when claims 73 and 74 should have been listed as withdrawn as being directed to a non-elected species of the invention. An explanation had been afforded as to the reason for withdrawal of claims 73 and 74 when claims 73 and 74 had not actually been examined. Therefore, claims 73, 74, and

160 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species of the invention.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: '113'. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not provide antecedent basis for "depression", (claim 134).

Claim Objections

Claim 158 objected to because of the following informalities: in each of lines 15 and 27 of claim 158 “member” should be --members--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 75-79, 81-83, 94, 134-136, 143, and 158 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 75, as at lines 38-40 recite that the vertical member of the reinforcement unit is “oriented...generally orthogonal to both said strengthening member and said at least one structural supporting member” when the specification and drawings do not appear to bear this out. It would seem instead, that the vertical member of the reinforcement unit is --oriented...generally orthogonal to said strengthening member and said second direction in which said at least one structural supporting member is directed--.

Claim 134 as at line 13 recites “said reinforcement unit further comprising...” when claim 134 had not set forth any element(s) that serves to make up the “said reinforcement unit”. Therefore, it is not clear as to what “said reinforcement unit”

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comprises. Lines 21-22, "said depression of said upper surface" lacks antecedent basis within the claim. It is therefore, not clear as to what "said depression of said upper surface" refers.

Claim 158, lines 27-28, to what does "at least one reinforcement unit" refer? Would this be the same as the "at least one panel reinforcement unit" presented in line 6 of claim 158?

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 158 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marks 1,819,906 in view of Carroll 3,965,641.

Marks discloses, Figs. 1 and 5,
a plurality of form panel units (17-17), each form panel unit comprising:
a panel member 17 being adapted for use as part of said form panel unit, to retain above said panel member said construction material in said unhardened state;
at least one reinforcement unit 4/8 oriented generally transversely; said at least one reinforcement unit also adapted for supporting said form panel unit during said fabrication of said slab;

first and second spaced structural supporting member 1 oriented generally longitudinally and adapted for assisting in supporting said plurality of form panel units when fabricating said floor or roof slab with said construction material in said unhardened state; wherein at least one of said first and second structural supporting members comprises a generally vertical, planar web surface with an unobstructed upper portion configured to allow a side edge of a panel member to be inserted against the planar surface of said web and an opposite side edge of the panel member to be inserted against the other of said first and second structural supporting members such that said a tight sealing fit can be formed between said panel member and said first and second structural supporting members:

each of said plurality of form panel units 17-17 in said system being configured to be at least in part supported by said first and second structural supporting member 1 with at least one reinforcement unit 4/8 such that said unhardened construction material can be retained above upper surface of said panel member to permit hardening of said construction material from said unhardened state to said hardened state.

Marks does not appear to specifically set forth the form panels as made from foam plastic.

However, Carroll teaches application of polystyrene panels 13 within a composite floor assembly to provide for insulation therein. Carroll teaches utilization of a prepared form panel comprising the foam panel 13 and formboard 12, col. 4, lines 13-14 of Carroll. Therefore, to have provided the Marks floor assembly with polystyrene as the or

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part of the panels (17), (i.e., either provide a polystyrene panel with panel 17 of Marks so as to form a single form panel or replace panel 17 with a polystyrene panel), thus providing for insulation within the construction, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Carroll. Further, to have formed the resulting form panel of Marks as one unit or one piece (one panel) between respective structural supporting members, thus serving to consolidate the materials and elements needed for the Marks construction, would have been obvious to one having ordinary skill in the art at the time the invention was made particularly, since it has been well settled that "that the use of a one piece construction instead of the structure disclosed in [the prior art] would be merely a matter of obvious engineering choice", *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965).

Claims 75-79, 81-83, 94, 134-136 and 143 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 2, 6-8, 12, 13, 15, 16, 25, 29, 34, 35, 69, 72, 75-79, 81-83, 91-94, 104, 105, 107, 114, 115, 122-126, 128, 131-133, 144, 145, 147, and 159 are allowed.

Response to Arguments

Applicant's arguments with respect to claim 158 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claim 144 have been noted. Claim 144 as addressed within the Office action of June 07, 2010 is not of the same scope as claim 5 presented within the response of December 29, 2008 with claim 5 presented within the response of December 29, 2008 having been dependent upon claim 2. However, upon further consideration, the Examiner deems claim 144 to be allowable as the prior art does not show or fairly teach a formwork system with form panel unit comprising a foam plastic panel member and a plurality of reinforcement units with each unit having a plurality of portions joined together with a first portion comprising a connector which first portion comprises a vertical section interconnected with a horizontal section which horizontal section extends longitudinally and transversely with an upwardly directed surface thereof supporting the panel unit at proximate the lower surface of the panel member, and a second portion of the reinforcement unit supporting the panel upon first and second structural members with a third portion of the reinforcement unit in the form of a vertical rod connected to the second portion and the connector of the first portion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL SAFAVI whose telephone number is (571)272-7046. The examiner can normally be reached on Mon.- Fri. 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571)272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
February 21, 2011